

TOWN OF WELLESLEY



MASSACHUSETTS

76-80

BOARD OF APPEAL

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Petition of John C. and Elaine R. Fitzpatrick

Pursuant to due notice the Board of Appeal held a public hearing in the hearing room on the second floor of the Town Hall at 8:50 p.m. on November 23, 1976, on the petition of John C. and Elaine R. Fitzpatrick, requesting a special exception or variance from the terms of Section XIX of the Zoning By-law which will permit the construction of an addition on the rear of their dwelling at 3 Sunset Road, with a side yard less than the required thirty feet. Said request was made under the provisions of Section XIX of the Zoning By-law and Chapter 40A, Section 15, of the General Laws.

On November 5, 1976, the petitioners filed their request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

At the hearing the petitioners spoke in support of the request.

A letter was received from John C. and Carol H. Phillips, 7 Sunset Road, in which they stated that they had no personal objection to the plans, but felt, however, that the plans should be developed to meet with the approval of the other abutting neighbors.

A letter was received from Elliot F. and Helen W. Childs, 7 Harvard Street, in which they stated that while they appreciated the desire of the petitioners to construct a wood deck porch on the rear of their dwelling, they did feel that the oversized deck would tend to decrease the sale value of their property. They further felt that a deck of adequate size could be designed without requiring a variance or exception from the terms of the Zoning By-law.

Statement of Facts

The house involved, which was built in 1957, is located on a lot containing 11,948 square feet, within a single-residence district requiring a minimum lot area of 10,000 square feet.

The petitioners seek permission to construct a deck in two sections and on two levels. The first section, which will be attached to the house, will be approximately 10' x 36' with two steps to the next level which will be 10' across the rear and 11' deep. It was stated that because of the location of the house on the lot, the outcropping of large rocks, and the need to align the deck stairs with the walkway to the driveway stairs, it was found necessary to request a variance which would allow the deck to be 24' back from Harvard Street rather than the required thirty feet. The first section of the deck, it was stated, will be approximately four feet above ground level and approximately two feet below the height of the rock outcropping at the rear. The second section will be slightly above the rock and will be 17' at the nearest point from the lot line rather than the required twenty feet. This encroachment was not known to the petitioners, it was stated, until the survey was made after the deck had been designed.

A plot plan was submitted, drawn by MacCarthy & Sullivan Engineering, Natick, dated October 1, 1976, which showed the existing dwelling on the lot as well as the proposed deck.

Elevation and framing plans were also submitted, drawn by Bruce Hanke, which showed the design of the proposed deck in detail.

Decision

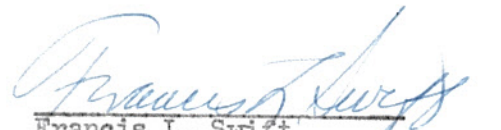
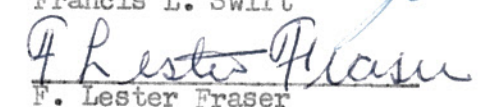
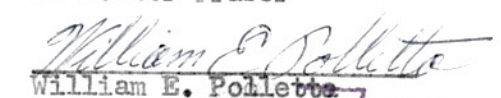
The Board has made a careful study of the plans submitted and has taken a view of the locus. The house was built in 1957, on a lot which was held under separate and distinct ownership from adjacent lots on April 1, 1940, which allows this Board to make its decision under the provisions of Section XIX of the Zoning By-law.

The Board feels that to allow an encroachment as proposed, would be detrimental to the adjoining property in the rear and the Board concurs with the owner of the property that if allowed, it would tend to decrease the sale value of the property. It is the further belief of the Board that an adequate-sized deck can be designed which will meet the petitioners' needs and comply with the requirements of the Zoning By-law.

The Board, therefore, finds that compliance with the requirements of Section XIX of the Zoning By-law is not impractical because of the width, depth and shape of the lot, which contains 11,948 square feet, that there is ample space for a reasonably-sized deck, and that the facts in this case do not satisfy the conditions set forth in Section XIX of the Zoning By-law on which the Board's authority depends to vary the requirements of of the side yard restricts of the Zoning By-law.

Accordingly, the requested exception is denied and the case dismissed.

Filed with Town Clerk _____


Francis L. Swift

F. Lester Fraser

William E. Pollette

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OCT 11 1976
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